A.F.R (47)

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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 6398 OF 2005

PETITIONERS

1. Sujit Pandey S/o Bhaiyalal Pandey, aged about 34 years
2. Aman S/o Shmusuddin Jivani aged about 30 years
3. Shabnam W/o Aman aged about 26 years
4. Manish Nagraj S/o Chaitudas aged about 28 years.
5. Abdul Vahid S/o Naim aged about 32 years.
6. Salim Moh. S/o Nazar Moh. Aged 32 years.
7. Sushil Soni S/o Ramdulare aged about 25 years
8. Gajadhar S/o Asha Ramaged aged about 34 yrs.
9. Manoj S/o Bihari Lal Mishra Aged about 25 yrs.
10. Rajesh S/o Shri Narayan Shrivastav aged about 35 yrs.

All resident of Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (C.G.)

Vs.

RESPONDENTS

1. State of Chhatisgarh, Though Secretary Panchayat & Social Welfare Department Mantralaya DKS Bhawan Raipur C.G.
2. Collector, Distt. Kabirdham (Kawardha) C.G.
3. Sub-Divisional Officer, Kawardh Distt. Kabirdham (Kawardha) C.G.
4. Smt. vimla, Sarpanch Village gram Panchayat Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (Kawardha) C.G.
5. Tahsildar Sahaspur Lohara Tah. Kawardha, Distt. Kabirdham (Kawardha) C.G.

WRIT PETITION NO.6575 OF 2005

PETITIONERS

1. Kailash Dubey S/o. Dwarika Dubey aged about 30 years
2. Mahaveer Chopda S/o Gyanchand Chopda aged about 32 years
3. Yogesh Chopda S/o Nemichand Chopda aged about 30 years
4. Ravinarayan Namdev S/o Shri Itwari namdev aged about 32 years
5. Seema srivastava c/o Goukarn Shrivastava aged about 28 years
6. Sohan Srhivastava S/o Tribhun Srivastava aged about 32 years
7. Sanjay Shristava S/o Krishankumar aged 32 years
8. Nand Shriwas S/o Gorelal Shriwas aged about 35 years
9. Denesh Rajpur S/o Karan Singh Rajput aged about 34 yrs.
10. Mahendra Tigga S/o Lekh Ram Tigga Aged about 32 yrs.

All resident of Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (C.G.)

Vs.

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4. Smt. vimla, Sarpanch Village gram Panchayat Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (Kawardha) C.G.
5. Tahsildar Sahaspur Lohara Tah. Kawardha, Distt. Kabirdham (Kawardha) C.G.

WRIT PETITION NO.6579 OF 2005

PETITIONERS

1. Kadar S/o Sekh Pyare aged about 30 years
2. Kailash Nagraj S/o Shashibabu aged about 30 years.
3. Rajendra Tiwari S/o Radheshyam aged about 32 years

4. Ajay Yadav S/o Motiram aged about 38 years.
5. Toran Yadav S/o Rupau Yadav aged about 32 years
6. Santkumar S/o Ramesh Nisad aged 32 about years
7. Smt. Shavitri W/o Ramesh Nisad aged about 55 years
8. Manoj Shriwas S/o Daulal aged about 34 yrs.
9. Kanhaiya S/o Dulari sen aged about 32 yrs.
10. Bhulashwar Jaiswal S/o Anant Ram Jaiswal aged about 35 yrs.

All resident of Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (C.G.)

Vs.

RESPONDENTS

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4. Smt. vimla, Sarpanch Village gram Panchayat Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (Kawardha) C.G.
5. Tahsildar Sahaspur Lohara Tah. Kawardha, Distt. Kabirdham (Kawardha) C.G.

WRIT PETITION NO.6581 OF 2005

PETITIONERS

1. Humik Jaiswal S/o Mehatter Jaiswal aged about 30 years
2. Syam Lal S/o Lacchi Shriwas aged about 30 years
3. Sandeep Jaiswaal S/o Dilip Jaiswal aged about 32 years
4. Dilip Jaiswal S/o Johan Jaiswal aged about 58 years
5. Rupram Jaiswal S/o Anantram aged about 32 years
6. Ajay Kant S/o Mandan Mohan aged 32 years
7. Vinit dubey S/o Rajendra Dubey aged about 35 years

8. Guljari S/o Ramsingh aged about 34 yrs.
9. Kailash Dhurwe S/o Vedram Aged about 32 yrs.
10. Manmohan S/o Lacchi Nai aged about 35 yrs.

All resident of Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (C.G.)

Vs.

RESPONDENTS

1. State of Chhatisgarh, Though Secretary Panchayat & Social Welfare Department Mantralaya DKS Bhawan Raipur C.G.
2. Collector, Distt. Kabirdham (Kawardha) C.G.
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4. Smt. vimla, Sarpanch Village gram Panchayat Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (Kawardha) C.G.
5. Tahsildar Sahaspur Lohara Tah. Kawardha, Distt. Kabirdham (Kawardha) C.G.

WRIT PETITION NO.6582 OF 2005

PETITIONERS

1. Naman lohi S/o P.N. Lohi aged about 30 years
2. Razak S/o Gafar aged about 30 years
3. Rajendra Soni S/o Bisahu Soni aged about 22 years
4. Laxmi Soni W/o Bisahu aged about 58 years
5. Bela Soni S/o Kishn soni aged about 32 years
6. Suresh S/o Bharat Prasad Mishra aged 32 years
7. Vijay Soni S/o Goukaran lai aged about 25 years
8. Sarita Mishra C/o Santosh aged about 24 yrs.
9. Swati C/o Ramau Aged about 25 yrs.
10. Harjit Singh S/o Ajit Singh aged about 35 yrs.

All resident of Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (C.G.)

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Vs.

RESPONDENTS

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2. Collector, Distt. Kabirdham (Kawardha) C.G.
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4. Smt. vimla, Sarpanch Village gram Panchayat Sahaspur Lohara Tah. Kawardha Distt. Kabirdham (Kawardha) C.G.
5. Tahsildar Sahaspur Lohara Tah. Kawardha, Distt. Kabirdham (Kawardha) C.G.

Present: Mr. D.K. Tiwari, learned counsel for the petitioners.

Mr. Yashwant Singh, learned G.A. for the State of CG.

Mr. Sameer Sahu, learned counsel for respondent No.4.

ORAL ORDER

(Passed on 12th January, 2006)

The petitioners 50 in number were granted small pieces of land each admeasuring '8x10' owned by Gram Panchayat, Sahaspur Lohara vide its resolution No.16 dated 18/08/2004 for business purpose in terms of Section 65(1) of the Panchayat Raj Adhiniyam, 1993 (for short "the Adhiniyam") after obtaining approval of the Collector, Kabirdham district (Kawardha) subject to certain terms and conditions. It appears that after the fourth respondent was elected as Sarpanch of Sahaspur Lohara Gram Panchayat, she lodged complaints with the respondent authorities complaining that the lease of the land in favour of the petitioner was irregular and illegal. That has resulted in an inspection of the proceedings of the grants made in favour of the

petitioners under the provisions of Section 84 of the Adhiniyam. Accordingly, the Sub Divisional Officer, Kawardha, third respondent herein, is conducting an enquiry into the allegation and the enquiry and I am told it is in progress. When the matter stood thus, the third respondent by his order has stayed the construction in the spaces allotted to the petitioners till further orders. The petitioners being aggrieved by the above action of the third respondent have filed these writ petitions.

(2) Heard learned counsel for the parties. It was contended by the learned counsel for the petitioners that the impugned order is one without authority of law, because, the Gram Panchayat Sahaspur Lohara before passing the resolution on 18/08/2004 had secured the approval of the Collector, Kawardha district and therefore, it is beyond the authority of the third respondent to question the correctness of the resolution No.16 dated 18/08/2004. Learned Govt. Advocate, per contra, would support the impugned action and contend that since the inspection and enquiry contemplated under Section 84 of the Adhiniyam is already initiated, it is very much within the power of the third respondent to pass the impugned direction in the interest of the Gram Panchayat.

(3) Section 84 of the Adhiniyam contemplates that the officer of the State Government duly authorized by the State Government can inspect the proceedings of the Gram Panchayat and he can exercise such powers as prescribed under the Inspection of Proceedings Rules, 1995. Section 85 provides that the State Government or the prescribed authority may by an order in writing and for reasons to be stated therein

suspend the execution of any resolution passed, order issued, licence or permission granted or prohibit the performance of any act by a Panchayat, if in his opinion, among other circumstances, such resolution, order, licence, permission or act is in excess of the powers conferred by the Adhiniyam or is contrary to any law. Since the enquiry and inspection has been set in motion in terms of Section 84 of the Adhiniyam, it cannot be said that the third respondent lacks legal power to prohibit construction in the spaces allotted to the petitioners pending completion of the enquiry or till further orders. Be that as it may, in terms of practicality and in the interest of both the parties, the order made by the third respondent impugned in this writ petition is just and reasonable and that order is intended to maintain the status quo. There is no merit in this writ petition. It is accordingly dismissed. The third respondent is, however, directed to complete the enquiry and pass appropriate final order expeditiously.

Sd/-
Chief Justice
Judge

Brajesh